

EVEBRIEF

Legal & Parliamentary

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LESS IS MORE WITH THE LOCALISM AGENDA



Peter Dines
Partner

As I put this edition to bed I have just received a list of Public Bodies (Quangos) that are earmarked for abolition. 192 Quangos will be abolished with a further 118 being "merged" into 57. The Department for Communities and Local Government will see a 70% drop in its Quangos, including the Infrastructure Planning Commission (function going into the Planning Inspectorate as the Major Infrastructure Planning Unit) and the Olympic Park Legacy Company (function going to the Mayor's office). It is when these reviews are carried out that you see the full extent of unelected Government bodies, surely the slimmed down structure will improve local decision making. It will also be interesting to see where the axe falls on public spending on the 20 October and the implications of this on the Government's localism agenda.

This week we see the London Plan Examination in Public approaching its conclusion. We have made several appearances supporting the work of London First. The Inquiry has taken four months and the outcome will not be known until well into next year.

LANDLORD & TENANT

01 British Council for Offices Guide

The Carbon Reduction Commitment (CRC) Energy Efficiency Scheme – A guide for landlords and tenants

The UK Government has set a target to reduce greenhouse gas emissions by 80% by 2050. At present just under 50% of greenhouse gas emissions in the UK are produced by buildings. This guide:

- provides some general information on the CRC scheme;
- discusses how the cost of the CRC scheme can be apportioned between landlords and tenants; and
- discusses issues that are likely to arise when the ownership of a building changes and some possible procedures for dealing with these.

<http://www.bco.org.uk/research/researchreports/detail.cfm?rid=162&cid=0>

PLANNING

02 Statutory Instrument

SI 2010/2184 The Town and Country Planning (Development Management Procedure) (England) Order 2010

This Order, which came into force on 01.10.10, consolidates with amendments the provisions of the Town and Country Planning (General Development Procedure) Order 1995 ('the 1995 Order') and subsequent amending instruments, insofar as they apply to England. It also includes provisions regarding the application of this Order to the Crown. The Order provides for procedures connected with planning applications, consultations in relation to planning applications, the determination of planning applications, appeals, local development orders, certificates of lawful use or development, the maintenance of registers of planning applications and related matters. The main changes are:

- clarification that National Park authorities are responsible for local planning authority functions in respect of their parks; and
- updating or removal of references to bodies where they no longer exist or where their functions have been transferred to other bodies.

http://www.legislation.gov.uk/uksi/2010/2184/pdfs/uksi_20102184_en.pdf

03 Communities and Local Government Consultation

Tree preservation orders: proposals for streamlining Deadline for Comments: 20.12.10

The Coalition Government is committed to a greener environment and safeguarding existing trees is crucial to this agenda. To this end it wants to make the tree preservation order (TPO) system easier to administer and the purpose of this consultation paper is to seek views on proposals to consolidate the provisions currently contained in regulations and TPOs into one universal set of new regulations. At the same time it is proposed to introduce revisions to streamline the regime, reduce the administrative burden of the TPO system for local authorities and to make the system fairer for tree owners. The main proposals are as follows:

- to consolidate TPO provisions and streamline certain procedures associated with TPOs in England, ss198(3), (4), (6), (8) and (9) and ss199, 201, 203-205 of the Town and Country Planning Act 1990 being replaced in new regulations; and
- to create, through a single set of regulations, one system which would apply to all TPOs by:
 - i replacing the Town and Country Planning (Trees) Regulations 1999 so far as they relate to England;
 - ii replacing the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 and the Town and Country Planning (Trees) (Amendment No 2) (England) Regulations; and
 - iii reducing the size of all existing and future TPOs by retaining only the information that identifies the trees which are protected.

The main changes are:

- simplify all existing TPOs by bringing them into line with the new model order;
- a new, shorter and simpler model order for all future TPOs, comprising a list of trees and a map identifying the trees protected;
- scrapping the requirement for a separate direction to provide urgent protection for threatened species, by giving all new TPOs immediate provisional effect;
- reduced requirements on authorities to publicise new TPOs – limited to owners and occupiers of the land where the trees are situated and anyone known to have rights to cut or fell the trees;
- clarifying the exemptions for making an application for works to a protected tree;
- adopting one system for the duration of consents for works to protected trees and the revocation of consents;
- increased local flexibility to provide consents for regular work to protected trees;
- using conditions rather than directions to secure any necessary replacement planting in woodlands; and
- treating all owners of protected trees fairly by bringing all compensation provisions into line with the provisions in the 1999 Regulations, in particular closing the loophole which meant that claims for compensation could be avoided by local planning authorities.

The new regulations are likely to be brought into effect in 2011.

<http://www.communities.gov.uk/publications/planningandbuilding/treestreamliningconsult>

04 CLG Guidance

Greater flexibility for planning permissions: Guidance

This document provides practical guidance on the use of measures which have been introduced following consultation on Greater Flexibility for Planning Permissions. It replaces the November 2009 guidance and covers:

- Extensions to time limits for implementing existing planning permissions. This was brought into force on 01.10.09 in the Town and Country Planning (General Development Procedure) (Amendment No 3) (England) Order 2009 and the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2009. Changes to the fee regulations were introduced by the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) 2010 (SI 2010/472). The GDPO was consolidated and the provisions subsequently amended in the Town and Country Planning (Development Management Procedure) (England) Order 2010 and changes to the listed buildings regulations were made by the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2010.
- Non-material amendments to existing planning permissions, brought into force on 01.10.09 by s96A of the Town and Country Planning Act 1990 via the commencement of s190 of the Planning Act 2008; and
- Minor material amendments – amended consultation requirements for applications under s73 of the Town and Country Planning Act 1990 were brought into force on 01.10.09.

<http://www.communities.gov.uk/publications/planningandbuilding/greaterflexibilityguidance>

05 CLG Statistical Publication

Planning Applications: April to June 2010 (England)

In the period between April and June 2010 local authorities which undertake district level planning:

- received 127,100 applications, 8% more than the June 2009 quarter
- decided (granted or refused) 112,400 applications, an increase of 7% compared with the June 2009 quarter
- granted 91,000 applications, an increase of 9% on the June 2009 quarter
- decided 12,800 applications for residential developments, 6% more than the June 2009 quarter
- decided 1,200 major residential development applications (being developments with ten or more dwellings), an increase of 9% on the June 2009 quarter
- decided 70% of major applications within 13 weeks

At county level 306 decisions were made, a decrease of 2% compared with the same quarter a year ago

<http://www.communities.gov.uk/publications/corporate/statistics/planningapplicationsq22010>

06 English Heritage Guidance

Temporary Structures in Historic Places: Guidance for local planning authorities, site owners and event organisers

This guidance explains and illustrates 'best practice' in the project management, design and regulation of temporary structures in a wide range of historic places ranging from city squares to landscaped parks and archeological sites. Events in historic places make a vital contribution to the economic sustainability of England's heritage and generate a wide range of cultural, social and economic benefits. While the majority of temporary structures needed to accommodate these events do not cause harm to the historic environment, careful planning and project management is necessary to prevent permanent damage and mitigate any adverse impacts. This guidance is concerned primarily with proposals for temporary structures that require planning permission, listed building consent, scheduled monument consent or consent under advertisement controls.

<http://www.helm.org.uk/upload/pdf/Temporary-structures.pdf?1286859663>

07 National Planning Forum Planning and Building Control Working Group Paper

Improving the Connection

This Working Group considered the following:

- areas that planning and building control have in common and the differences between them;
- the process of establishing sustainability standards, the regulatory framework for tackling climate change and the different roles, and increasing convergence, of planning and building control as the principle mechanisms for achieving zero carbon objectives in construction; and
- recent developments in building regulation and building control reform.

The report concludes with observations concerning the development of shared agendas between planning and building control and makes recommendations for reducing the areas of overlap between them.

<http://www.natplanforum.org.uk/Improving%20the%20Connection%20-%20final%20draft%202013.08.10.pdf>

LEASEHOLD REFORM

08 Central London County Court

Deceased landlord – landlord leaving property to appellant son in will – no grant of probate applied for or made – respondent tenant seeking to exercise right to new lease under Leasehold Reform, Housing and Urban Development Act 1993 – vesting order granted under s50 on ground that landlord could not be found or his identity ascertained within s50(1)(b) – whether s50 applied

* POWER V STANTON
(2010) PLSCS 252 – Decision given 20.09.10

Facts: The freehold of a property was held by the deceased until her death in 1997. P, the appellant, was the deceased's son and one of the executors and trustees of her estate. Under the terms of her will the deceased left her estate, including the freehold interest in the property, to P for life and thereafter to her grandchildren. P and his co-executors did not apply for a grant of probate and 12 years later S, the long leaseholder of the property, sought to acquire a new long lease under Chapter II of the Leasehold Reform, Housing and Urban Development Act 1993. However, instead of serving a notice under s42, he applied to the court for the grant of a new lease by means of a vesting order under s50, on the ground that the landlord could not be found nor her identity ascertained within s50(1)(b). The form named the deceased's personal representatives and gave P's correct address for service of proceedings.

Point of dispute: Whether P's appeal would be allowed against the district judge's ruling that P could not defend the proceedings. The judge held that P had not been properly constituted as a personal representative of the deceased and that the death of the deceased, together with the absence of any grant of probate in respect of her will, meant that the landlord of the property was unknown. In those circumstances s50 applied and S was entitled to a vesting order. P's argument was that s50 did not apply as the landlord who had died was identified, and secondly the statutory criteria for a s50 vesting order had not been satisfied since the identities and addresses of the deceased's personal representatives were readily ascertainable from the documents and correspondence available to S. Furthermore, service of a s42 notice was available to a tenant of a deceased landlord by serving a notice on the personal representatives of a named deceased at the deceased's last known address.

Held: P's appeal was allowed. As long as a deceased's personal representative could be identified and found the condition in s50(1)(b) could not be satisfied. Where real property has been bequeathed under a will, the executor's title to it derived from the will, not from the grant of probate, and the property vested in the executor from the moment of the deceased's death. In this case the production to the court of the deceased's will was sufficient evidence of P's title and the district judge should have concluded that the necessary conditions for the operation of s50 had not been made out. The structure of s50 was based on the tenant's inability to serve a s42 notice and where such a notice could be served there was no room for the operation of s50. S had the correct details for the deceased's executors and could have served a s42 notice on them in the usual way.

COMPULSORY PURCHASE

09 Upper Tribunal: Lands Chamber

Interference with human rights

* THOMAS V BRIDGEND COUNTY BOROUGH COUNCIL
(2010) PLSCS 244 – Decision given 29.07.10

Facts: T lived near to a relief road that had been built by a developer under an agreement with BCBC under s278 of the Highways Act 1980 dated April 2002. BCBC were to adopt the road as a highway maintainable at the public expense once a letter of acceptance was issued, 12 months after the road was substantially completed. Although the road opened for public use in July 2002 the letter of acceptance was only issued three years later and the road was adopted in 2006.

Point of dispute: Whether T was entitled to compensation under the Land Compensation Act 1973 for alleged diminution in the value of his home caused by noise and nuisance from the new road. Section 19(3) of the Act barred such claims where the road in question had not been adopted within three years of being open to public traffic, but T claimed that s19(3) represented an unlawful interference with his right to the peaceful enjoyment of his property under Article 1 of the First Protocol to the European Convention on Human rights (ECHR), and that it also breached his right under Article 6 to a fair and public hearing to determine his civil rights. The matter was tried as a preliminary issue.

Held: The preliminary issue was determined in favour of BCBC.

- (i) Article 1 of the First Protocol contained three rules, the first enunciated the principle of the peaceful enjoyment of property, the second covered deprivation of possessions and the third recognised that contracting states were entitled to control the use of property in accordance with the general interest. To be compatible with Article 1 any interference with the right to peaceful enjoyment of possessions had to strike a fair balance between the demands of the general interest of the community and the requirements of the protection of the individual's private rights. T conceded that the road had been built in the public interest, but his case for interference was the effect of s19(3) of the 1973 Act. However, the 1973 Act did not affect the rights that were protected by Article 1 – regardless of whether T received compensation under the 1973 Act he would continue to suffer from noise and nuisance. The compensation that would be paid under the 1973 Act to mitigate any decrease in value of his house was not a possession within the meaning of Article 1.
- (ii) Section 19(3) was not incompatible with T's Article 6 rights.

REAL PROPERTY

10 Statutory Instrument

SI 2010/2356 The Commons Act 2006 (Commencement No 1 and Savings (England and Wales) and Commencement No 5 (England) (Amendment)) Order 2010

This Order brings into force on 01.12.10 in relation to England and Wales the repeal by the Commons Act 2006 of provisions in the Commons Registration Act 1965 ('the 1965 Act') relating to the provisional registration of land under the 1965 Act, the determination of objections to such registration and the appointment and procedures of the Commons Commissioners. These provisions have ceased to have any purpose since the time period for submitting applications for provisional registration under the 1965 Act has expired and all provisional registrations referred to the Commons Commissioners have been determined. Upon commencement of the repeal the role of the Commons Commissioners ceases to exist. The Order contains consequential and supplemental provisions to allow proceedings in respect of a decision made by a Commons Commissioner to be brought or continued against the Sec of State.

http://www.legislation.gov.uk/ukxi/2010/2356/pdfs/ukxi_20102356_en.pdf

11 High Court

Mistake – construction of contract

* BASHIR V ALI
(2010) PLSCS 253 – Decision given 30.09.10

Facts: A was selling a mixed commercial and residential property at auction. The auction catalogue stated: "Please note the General Conditions of Sale which are included with this catalogue and the Special Conditions of Sale which are available on request... Prospective purchasers are assumed to have inspected the properties in which they are interested and to have made all usual pre-contract searches and enquiries." B, an investor, purchased most of his investments at auction and never inspected properties that he purchased. At the auction he read an addendum slip which stated: "Shop – the rent is £7,000 per annum... total income is £7,100 per annum and there is no rent review in 2011". B's bid for the property was successful and he signed a memorandum of sale. B thought that the property he had bought comprised a shop and a first floor flat, when in fact it also included a ground floor studio flat.

Point of dispute: What was the effect of B's mistake? B sought an order that the entire property should be transferred to him (although he would grant a 125-year lease of the first floor flat to A) whereas A argued that the contract did not require the transfer of the freehold of the entire property, but only a lesser interest in it.

Held: B's claim was allowed in part. The contract had to be construed on the basis that the purchaser had satisfied himself as to the accuracy of the particulars and special conditions, including by an inspection of the property. The contract was what it would mean to a reasonable person who had inspected the property: in this case an objective observer would assume that reasonable people in the position of the parties would be aware of the property's layout. There was a clear mistake on the face of the instrument. Construing the contract against the fact that the property actually comprised a shop and the ground and first floor flats, the court would order specific performance of the contract to sell the freehold to B, subject to him executing 125-year leases to A at a rent of £100 in respect of both flats, this being the only possible construction if the contract was not to be void for uncertainty.

HOUSING

12 HCA Monthly Housing Market Bulletin

HCA Monthly Housing Market Bulletin – 28 September 2010

The Housing Market Bulletin provides the latest information on the housing market, the economy and the housebuilding industry. The information, which is drawn from several different sources, includes:

- house price changes from house price indices including Nationwide, Halifax, the Land Registry and the RICS;
- housing market forecasts;
- housing starts and completions as reported by Communities and Local Government and updates on key housebuilders; and
- mortgage trends and overall economy information.

In August:

- House prices fell for the second month in a row with more sellers coming back to the market but less new buyers registering with agents.
- The housing market has been generally stronger in the south than the north. According to the Land Registry, London has seen the strongest house price growth over the past year and the North East the weakest.
- Although GDP increased by 1.2% during this quarter, this growth is unlikely to be sustained going forward due to the Government's forthcoming programme of considerable cuts in public expenditure and low levels of credit for businesses and households.
- Housebuilders are generally of the view that the outlook for the housing market is not encouraging due to the ongoing lack of mortgage finance, the climate of economic uncertainty and problems with getting planning permission. There continues to be a shift from flats to family homes.

<http://www.homesandcommunities.co.uk/public/documents/Housing-Bulletin-Sept2010.pdf>

CONSTRUCTION

13 Communities and Local Government Circular

Circular 07/2010: The Building Act 1984, Building Regulations 2010. New and extended competent person self-certification schemes

This Circular:

- sets out and explains the two sets of regulations (SI 2010/2214) and (SI 2010/2215) which consolidate the Building Regulations 2000 and subsequent amendments to those Regulations, and the Building (Approved Inspectors etc) Regulations 2000 and subsequent amendments to those Regulations;
- explains the transitional provisions;
- confirms the continued approval of the Approved Documents and approved methodologies, circumstances, procedures and manners of recording under specific regulations in the Building Regulations; and
- Announces further provisions for self-certification.

The new consolidated Building Regulations came into force on 01.10.10.

<http://www.communities.gov.uk/publications/planningandbuilding/circular072010>

14 CLG Circular letter

The Building (Approved Inspectors etc) Regulations 2010 Publication of the Approved Documents and Compliance Guides

This letter informs Building Control bodies about the publication of Approved Documents and compliance guides to support the changes made to Parts F and J of Schedule 1 to, and the energy efficiency requirements of, the Building Regulations 2000 and Building (Approved Inspectors etc) Regulations 2000 by the Building and Approved Inspectors (Amendment) Regulations 2010 (SI 2010/719). These changes are now consolidated within the Building Regulations 2010 (SI 2010/2214) and the Building (Approved Inspectors etc) Regulations 2010 (SI 2010/2215) which came into force on 01.10.10.

<http://www.communities.gov.uk/publications/planningandbuilding/divletterapproveddocumentfjl>

15 CLG Circular letter

Circular letter: Building Control by Approved Inspectors (AIs) under Part II of the Building Act 1984: Insurance Schemes for Approved Inspectors

This circular letter concerns insurance schemes prepared by insurers for Approved Inspectors pursuant to s47(6) of the Building Act 1984, and approved by the Sec of State. To gain approval schemes should comply with the relevant guidelines set out in a Circular Letter dated 23.10.01 and revised by the 'Warranty Link Rule' Circular letter of 31.10.05. The ODPM Circular Letter to local authorities and Approved Inspectors dated 10.12.04 announced the approval of the 'PYV Limited Scheme' pursuant to s47(6), but PYV are no longer able to offer insurance policies that comply in full with the current criteria and consequently this letter informs Building Control Bodies that approval for the PYV insurance scheme for Approved Inspectors has been withdrawn wef 21.09.10. Policies issued by PYV prior to that date will remain valid.

<http://www.communities.gov.uk/publications/planningandbuilding/divletterpyvscheme>

16 CLG Circular letter

Building Control by Approved Inspectors under Part II of the Building Act 1984 – Designated Warranty Schemes for the purposes of the Warranty Link Rule

This letter informs Building Control Bodies about the approval of the Build-Zone warranty scheme as a Designated Warranty Scheme for the purposes of the Warranty Link Rule. This rule requires that when an Approved Inspector is carrying out the building control function in respect of new dwellings for private sale or rent that those new dwellings are registered under a Designated Warranty Scheme. Having met the criteria detailed in Annex E of the 31.10.05 letter, and having provided the necessary assurances, the Build-Zone Housing Warranty is approved as a Designated Warranty Scheme for the purpose of the Warranty Link Rule.

<http://www.communities.gov.uk/publications/planningandbuilding/divletterbuildzone>

17 CLG Circular letter

The Building and Building (Approved Inspectors etc) Regulations 2010

This letter informs Building Control bodies that the Building Regulations 2010 and the Building (Approved Inspectors etc) Regulations 2010 were laid in Parliament on 09.09.10 and come into force on 01.10.10. From that date the 2000 Regulations and all amendments to them are revoked and all future work should refer to the 2010 Regulations.

<http://www.communities.gov.uk/publications/planningandbuilding/divletterbuildingregs2010>

18 CLG Impact Assessment

Final Stage Impact Assessment 0016: New and Extended Competent Person Schemes

This Impact Assessment, which accompanies the Building Regulations 2010, assesses the impact of the extension to existing Competent Person Self-Certification Schemes, the introduction of new Competent Person Self-Certification Schemes as well as the impact of introducing new types of work which can be carried out by a Competent Person Self-Certification Scheme.

<http://www.communities.gov.uk/publications/planningandbuilding/newcompetentpersonsschemeia>

19 CLG Impact Assessment

Final Stage Impact Assessment 0015: Consolidation of the Building Regulations 2000 (as amended) and the Building (Approved Inspectors etc) Regulations 2000 (as amended)

This impact assessment accompanies the Building Regulations 2010 and the Building (Approved Inspectors etc) Regulations 2010 and assesses the impact of the Consolidation of the Building Regulations 2000 (as amended) and the Building (Approved Inspectors etc) Regulations 2000 (as amended).

<http://www.communities.gov.uk/publications/planningandbuilding/consolidationbuildingregesia>

GENERAL

20 Adaptation Sub-Committee (ASC) of the Committee for Climate Change Report

How well prepared is the UK for climate change?

To date, the main focus in tackling climate change has been on mitigation, addressing the human causes by reducing greenhouse gas emissions. However, even with strong international action on mitigation, past and present emissions mean that the climate will continue to change and the UK will need to respond – adaptation. Adaptation and mitigation are not alternative, but complementary solutions to the problems posed by climate change. The ASC of the Committee on Climate Change was established under the Climate Change Act 2008 to provide independent advice to the UK government and the devolved administrations on the impacts of climate change on the UK and to assess Government progress in implementing the National Adaptation Programme.

This report is the first national assessment of how well prepared the UK is to cope with the impacts of climate change through adopting measures to adapt to climate change. It addresses the following four questions:

- what steps should the UK be taking to adapt?
- what progress has been made so far?
- what further action is required?
- what will ASC do to help?

<http://www.theccc.org.uk/reports/adaptation>

21 RICS Draft Guidance Note

The Capital and Rental Valuation of Public Houses, Bars, Restaurants and Nightclubs in England and Wales

The RICS 'Red Book' – 'The valuation of individual trade related properties' – considers the criteria to be adopted by valuers when assessing Market Value or Market Rent for an individual trade related property. It relates to a wide range of trade related property such as hotels, public houses, bars, restaurants, theatres or cinemas, fuel stations and care homes. This note provides more detailed guidance to valuers regarding the valuation of a specific group of trade related property, public houses, bars, restaurants, and nightclubs (licensed properties) that are occupied and trading. It refers to valuation methodology and provides a practical approach to the assembly and interpretation of the relevant information. In the case of properties that are economically capable of occupation as licensed properties, but are vacant, the same principles and approach should be applied, with appropriate adjustments and weighting attached to the various factors affecting value. Due to the widely differing trading characteristics that licensed properties have the sector is divided into a number of sub-markets and these are also addressed in the paper.

http://www.rics.org/site/download_feed.aspx?fileID=7536&fileExtension=PDF

22 Property Industry Alliance and CoreNet Global Survey

Occupier Satisfaction Survey 2010

This annual survey measures the satisfaction of commercial occupiers in the UK.

- 4.9 out of 10 occupiers consider that there is room for improvement
- there continues to be a significant difference between small and large occupiers
- sustainability is still a key concern, occupiers considering that landlords need to significantly increase their levels of interaction with them on this issue
- occupier satisfaction levels with the rent review terms and conditions achieved in lease negotiations have increased considerably over the last 12 months
- as in last year's survey, a significant proportion of occupiers are dissatisfied with the application for consent process.

<http://www.occupiersatisfaction.org.uk/pdf/2010UKOSIreport.pdf>

GERALD EVE'S UK OFFICE NETWORK

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Evebrief has been established for more than 30 years. It is a summary of the latest statutory and legal cases affecting the property industry and is widely regarded in the industry as the most comprehensive document of its type.

Useful web links

www.ukonline.gov.uk
www.odpm.gov.uk
www.dft.gov.uk
www.inlandrevenue.gov.uk
www.hmso.gov.uk
www.egi.co.uk
focus.focusnet.co.uk
[www.newLawonline.com](http://www.newlawonline.com)

Abbreviations

The following abbreviations are used in evebrief:

BLD	Lexis Nexis Butterworths (internal abbreviation)
EG	Estates Gazette
EGLR	Estates Gazette Law Reports
EWCA	England & Wales Court of Appeal
EWHC	England & Wales High Court
P&CR	Property, Planning and Compensation Reports
PLSCS	Property Law Service Case Summaries

The star system

Cases are marked with one, two or three stars as follows:

- *** Essential reading on the point of law or valuation with which the case is concerned, because it adds to, or clarifies or changes, the law.
- ** Noteworthy case which does not significantly alter the law or which relates to a relatively obscure point.
- * Interesting but non-essential reading.

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EVEBRIEF

Legal & Parliamentary

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SCOTLAND

PLANNING

01 Scottish Government Consultation Paper

The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 – Householder Permitted Development Rights
Deadline for Comments: 14.01.11

This paper invites comments on the Scottish Government's proposals to change the rules which determine what types of householder development need planning permission. The changes apply to development relating to dwellinghouses, currently set out in the 1992 Order under Classes 1-6A-F. A new class is proposed for certain development relating to flats and there are other consequential changes to some of the other Classes and definitions in the 1992 Order. The principal aim of the proposed changes is to simplify the rules, and also to remove the requirement for planning permission for more minor and uncontroversial developments.

<http://www.scotland.gov.uk/Resource/Doc/326545/0105203.pdf>

02 Scottish Government – Social Research Findings

Extending Permitted Development Rights for Domestic Wind Turbines and Air Source Heat Pumps: Summary of Analysis of Consultation Responses

This report summarises the results of a consultation carried out between February and April 2010 on proposals to expand the scope of permitted development for micro wind turbines and air source heat pumps under classes 6G and 6H of the General Permitted Development Order. The main findings included the following:

- there was general support for the aims of extending permitted development for these categories of micro-renewables;
- noise was one of the most controversial issues with divided views over the acceptability of the proposals and of alternatives such as lower noise limits on the decibel scale, use of criteria responsive to changes in ambient noise, or to tonal issues;
- concerns were raised about the adequacy of measures to protect birds or bats and the possible implications for European directives on species protection;
- significant reservations were expressed by the air transport industry and the MOD's agency for defence estates due to the general cumulative effect of micro wind turbines to interfere with radar systems;
- additional measures for protecting landscape, ecology and the built heritage were suggested by some respondents; and
- most respondents felt that a general amenity condition of permitted development was ineffectual.

<http://www.scotland.gov.uk/Resource/Doc/323062/0103988.pdf>

<http://www.scotland.gov.uk/Resource/Doc/323052/0103987.pdf>

ENERGY

03 Scottish Government Paper

Conserve and Save: The Energy Efficiency Action Plan for Scotland

Following its publication in October 2009 of the Scottish Government's current policies and options on energy in Scotland in 'Conserve and Save: a Consultation on the Energy Efficiency Action Plan for Scotland', this Plan reaffirms the Scottish Government's ambitious energy efficiency and microgeneration agenda for Scotland, setting out its programme of activity on behaviour change, household, business and public sector energy efficiency, infrastructure, skills, and finance.

<http://www.scotland.gov.uk/Resource/Doc/326862/0105383.pdf>

GENERAL

04 Scottish Government Research Paper

Factors Influencing Rural Migration Decisions in Scotland: An Analysis of the Evidence

This study was carried out in 2010 to support the development of 'Speak Up for Rural Scotland', the Scottish government's consultation document on how rural areas can best contribute to Scotland's sustainable economic growth. The study draws together the large body of research on rural migration in Scotland in order to consider the evidence, assess its reliability and ascertain its implications for policy development and delivery. The study focuses on the age and life-stage related factors which could influence individuals' rural migration decisions.

<http://www.scotland.gov.uk/Resource/Doc/324274/0104365.pdf>

<http://www.scotland.gov.uk/Resource/Doc/324164/0104313.pdf>

05 Scottish Government Consultation

Getting the best from our land: A draft land use strategy for Scotland
Deadline for Responses: 30.11.10

This Draft Land Use Strategy sets out the Scottish government's vision for the role of Scotland's land in supporting a prosperous, sustainable and low-carbon economy and developing a shared agenda for public bodies, businesses, environmental bodies, communities and individuals. The Strategy contains a set of principles for sustainable land use which can be used when making decisions about land use and land use change.

<http://www.scotland.gov.uk/Publications/2010/09/23100015/0>

06 Scottish Government Consultation

Public Bodies Climate Change Duties: Putting them into practice – Consultation on Draft Guidance Required by Part 4 of the Climate Change (Scotland) Act 2009
Deadline for Responses: 26.11.10

This consultation seeks views on draft guidance for public bodies on their climate change duties as required by Part 4 of the Climate Change (Scotland) Act 2009. This Act sets ambitious targets for emissions reductions (mitigation) and other climate change provisions, including adaptation. The public sector has a crucial leadership role in the delivery of Scotland's climate change ambitions for both mitigation and adaptation, as set out in the Act, and in acting sustainably.

<http://www.scotland.gov.uk/Resource/Doc/324824/0104620.pdf>

NORTHERN IRELAND

PLANNING

07 Statutory Instrument

SR 2010/329 The Planning (Hazardous Substances) (Amendment) Regulations (Northern Ireland) 2010

The Planning (Control of Major-Accident-Hazards) Regulations (Northern Ireland) 2009 implemented in relation to Northern Ireland, the land use planning provisions of Directive 96/82/EC on the control of major accident hazards involving dangerous substances ('The Seveso II Directive'). As part of the implementation of this Directive the 2009 Regulations substituted a new Schedule 3 to the 1993 Regulations. Regulation 2 of these Regulations, which come into force on 22.10.10, corrects an error in the substituted Schedule 3. Regulation 3 confers transitional immunity from prosecution and contravention proceedings for a period of six months from 22.10.10 and during this time an application for consent may be made.

http://www.legislation.gov.uk/nisr/2010/329/pdfs/nisr_20100329_en.pdf

RATING

08 Statutory Instrument

SR 2010/324 The Rates (Unoccupied Property) (Prescribed Information) Regulations (Northern Ireland) 2010

These Regulations, which came into force on 15.10.10, revoke and replace the 2004 Regulations in consequence of s6(5) of the Rates (Amendment) Act (Northern Ireland) 2009 extending to domestic property the power of the Department of Finance and Personnel under Article 26(2A) of the Rates (Northern Ireland) Order 1977 to require information to be provided in respect of non-domestic property which is unoccupied.

http://www.legislation.gov.uk/nisr/2010/324/pdfs/nisr_20100324_en.pdf
